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7 PETER A BAGATELOS, et al.,
8 Plaintiffs,
9 v.
10 UMPQUA BANK,
11 Defendant.
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14 Case No. 23-cv-02759-RS
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16 **ORDER AWARDING COSTS**
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18 Following entry of judgment in its favor, defendant Umpqua Bank filed a timely bill of
19 costs requesting a total amount of \$22,974.59. Plaintiffs filed an objection, asserting Umpqua was
20 not entitled to any costs because it was not a “prevailing party” under Federal Rule of Civil
21 Procedure 54(d). Plaintiffs further argued costs should be denied in light of their allegedly limited
22 financial resources. Plaintiffs did not otherwise challenge any of the cost items, the individual
23 amounts, or the total claimed. The Clerk of the Court then entered an order taxing costs in the
amount of \$0.00, noting the claimed costs were disallowed as “outside the ambit” of the local
rules.

24 Although plaintiffs referred to Rule 54(d) as “inapplicable,” their argument actually was
25 that there is no “prevailing party” when the rule is applied in the context of a jurisdictional
26 dismissal. Umpqua moves for judicial review of the Clerk’s order taxing costs, contending it is
27 now settled law under *CRST Van Expedited, Inc. v. EEOC*, 578 U.S. 419 (2016) that “a favorable
28 ruling on the merits is not a necessary predicate to find that a defendant has prevailed.” *Id.* at 421,

1 and that, therefore, a dismissal for lack of standing—while not an adjudication on the merits—still
2 makes the defendant the prevailing party, who is entitled to recover its court costs.

3 Pursuant to Civil Local Rule 7-1(b), Umpqua's motion is suitable for disposition without
4 oral argument and the hearing set for September 26, 2024, is vacated. The motion will be granted,
5 and costs will be awarded in the uncontested amount of \$22,974.59.

6 In opposition to the motion, plaintiffs effectively abandon their argument that a dismissal
7 for lack of subject matter jurisdiction means there is no “prevailing party” under Rule 54(d).
8 Instead, plaintiffs contend the cost issue here is governed by 28 U.S.C. § 1919, which provides:

9 Whenever any action or suit is dismissed in any district court, the
10 Court of International Trade, or the Court of Federal Claims for
want of jurisdiction, such court may order the payment of just costs.
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12 Plaintiffs now argue Rule 54(d) does not apply because by its own terms it operates only if
13 no “federal statute, these rules, or a court order provides otherwise.” Plaintiffs then contend
14 awarding “just costs” under § 1919 is less automatic than awarding costs to a prevailing party
15 under Rule 54(d). Plaintiffs also insist Umpqua has waived any claim for costs under § 1919 by
16 relying solely on Rule 54(d) in its motion.¹

17 Even assuming plaintiffs did not forfeit their current argument that § 1919 is the sole
18 governing standard by failing to raise it in their objection to the cost bill, they have not shown the
19 statute and Rule 54(d) are mutually exclusive. While it may be that, prior to *CRST*, a party
20 claiming costs following a dismissal on jurisdictional grounds would have been forced to rely
21 exclusively on § 1919, a clear consequence of *CRST* is that the term “prevailing party” used in
22 Rule 54(d) can now be understood to include a party in whose favor a jurisdictional dismissal was
23 entered.

24 Furthermore, even assuming Umpqua were restricted by § 1919 to recovering only “just

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26 ¹ Umpqua claimed its costs, however, on this district’s form Bill of Costs, which does not require
27 the party seeking costs to identify any rule or statute under which the costs are claimed.
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1 costs," the costs it seeks are just under all the circumstances here. Plaintiffs' argument that
2 Umpqua's resources exceed theirs, particularly where the essence of their claim is that many of
3 them lost a significant portion of their life savings in the underlying fraudulent scheme, falls short
4 of constituting a reason to deny Umpqua its costs. Not only have plaintiffs provided no real
5 information as to their financial condition, but they would also be hard pressed to show that
6 bearing the cost award is an undue burden, given that the amount sought, divided by the number of
7 plaintiffs, comes to something less than \$2500 per individual plaintiff. Accordingly, Umpqua's
8 motion is granted, and it is awarded costs in the amount of \$22,974.59.

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10 **IT IS SO ORDERED.**

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12 Dated: September 17, 2024

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RICHARD SEEBORG
Chief United States District Judge